IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 148 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UNIVERSAL ENTERPRISE - Petitioner(s)
Versus
ADITYA INFO-SOFT LTD. - Respondent(s)

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Appearance :
MR PAVAN S GODIAWALA for Petitioner(s) : 1,
MR ASHOK L SHAH for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 17/03/2006

ORAL JUDGMENT

1. The present company petition is filed by the petitioner M/s Universal Enterprise for an appropriate order for winding up of the

respondent company i.e Aditya Info-Soft Ltd under the provisions of the Companies Act, 1956.

2. It is submitted on behalf of the petitioner that an amount of Rs.1,68,000/- is due and payable to the petitioner by the respondent company and in spite of repeated requests and demand, the said amount has not been paid and therefore, the petitioner was constrained to serve a statutory notice upon the respondent company under Section-434 of the Companies Act, 1956 and inspite of service of the same, the amuont has not been paid and according to the petitioner the respondent company is not in position to pay its debts and has become insolvent within the provisions of the Companies Act, 1956 and has lost its substratum and therefore, it is requested to allow the present petition and the respondent company be ordered to be wound up.

3. This Court issued notice in the present petition and affidavit came to be filed on behalf of the respondent company and considering the affidavit and categorical admission on the part of the respondent company, that respondent company is unable to discharge its debts even to an extent of Rs.1.68 Lakhs and the possession of the property of the respondent company has been taken by Gujarat State Financial Corporation, the learned Single Judge of this Court by order dated 22.1.2006, directed to admit the present petition and further directed to advertise the notice of admission in two daily newspapers viz. `Indian Express' and `Divya Bhaskar' (Gujarati) both Ahmedabad editions and fix the final hearing on 6.3.2006. Affidavit is filed on behalf of the respondent company along with newspaper clippings showing that notice of admission has been advertised in local newspapers `Indian Express' (English Edition) and `Divya Bhaskar' (Gujarati Edition) on 11.2.2006. It appears that since

after admission of the petition and advertisement of the admission, the respondent company has not done anything. It has not paid the dues of the petitioner, nor it has settled the matter. It has not come out with any affidavit that the company is profit making company or is able to discharge its liabilities and debts.

4. For the reasons stated above, the petition is allowed. The respondent company is directed to be wound up. The Official Liquidator attached with this Court is appointed as Official Liquidator for the respondent company. The Official Liquidator is hereby asked to take possession of the property (movable and immovable) of the respondent company along with its bank accounts, cash and accounts books etc. The Official Liquidator shall submit his report within a period of three months. If required, he can take services of the Official Valuer for the purpose of preparation of possession note etc. No costs.

The petition is accordingly disposed of.

[M.R.Shah, J.]

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